



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 231030-0254]

RIN 0648-BM33

Atlantic Highly Migratory Species; 2024 Atlantic Shark Commercial Fishing Year

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule adjusts the quotas and retention limits and establishes the opening date for the 2024 fishing year for the Atlantic shark commercial fisheries. NMFS also changes the management measures for the 2024 and future fishing years to automatically open the commercial fishing year on January 1 of each year under the base quotas and default retention limits, and increases the default commercial retention limit for the large coastal shark (LCS) fisheries. Quotas are adjusted as required or allowable based on any underharvests from the previous fishing years. The final measures could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

DATES: This final rule is effective on January 1, 2024. The 2024 Atlantic shark commercial fishing year opens on January 1, 2024 for all species and regions.

ADDRESSES: Electronic copies of this final rule and supporting documents (including the annual Atlantic Highly Migratory Species (HMS) Stock Assessment and Fishery Evaluation Report) are available from the Atlantic HMS Management Division website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species> or by contacting Ann Williamson at ann.williamson@noaa.gov or 301-427-8503.

FOR FURTHER INFORMATION CONTACT: Ann Williamson

(ann.williamson@noaa.gov), Guy DuBeck (guy.dubeck@noaa.gov), or Karyl Brewster-Geisz (karyl.brewster-geisz@noaa.gov) at 301-427-8503.

SUPPLEMENTARY INFORMATION:

Background

Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635. The shark commercial retention limits, quotas, and closure requirements can be found in §§ 635.24(a), 635.27(b), and 635.28(b), respectively.

For the Atlantic shark commercial fisheries, the 2006 Consolidated HMS FMP and its amendments established default commercial shark retention limits, commercial quotas for species and management groups, and adjustment procedures for underharvests and overharvests. Regulations also include provisions allowing flexible opening dates for the fishing year (§ 635.27(b)(3)) and inseason adjustments to shark trip limits (§ 635.24(a)(8)), which provide management flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas. In addition, § 635.28(b)(4) lists species and management groups with quotas that are linked. If quotas are linked, when the specified quota threshold for one management group or species is reached and that management group or species is closed, the linked management group or species closes at the same time (§ 635.28(b)(3)). Lastly, pursuant to § 635.27(b)(2), any annual or inseason adjustments to the base annual commercial overall, regional, or sub-regional quotas will be published in the **Federal Register**.

Background information about the need to adjust the quotas and retention limits and establish the opening date for the 2024 and future fishing years for the Atlantic commercial shark fisheries was provided in the proposed rule (88 FR 50822, August 2, 2023) and is not repeated here. The comment period for the proposed rule closed on September 1, 2023. NMFS received two written comments. Summaries of the comments received, and our responses to those comments, are in the **Response to Comments** section. Similar comments are combined, where appropriate. After reviewing and considering all the public comments received on the proposed rule, NMFS is finalizing the rule as proposed.

Final Opening Date and Retention Limit Measures

After considering the “Opening Commercial Fishing Season Criteria” listed at § 635.27(b)(3), and “Inseason Trip Limit Adjustment Criteria” listed at § 635.24(a)(8), NMFS is opening the 2024 Atlantic commercial shark fishing season for all shark management groups in the northwestern Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, on January 1, 2024. NMFS is also starting the 2024 commercial shark fishing season with the commercial retention limit of 55 LCS other than sandbar sharks per vessel per trip in both the eastern and western Gulf of Mexico sub-regions as well as in the Atlantic region (Table 1). As needed, NMFS may adjust the retention limit throughout the year to ensure equitable fishing opportunities throughout the region and ensure the quota is not exceeded (see the criteria at § 635.24(a)(8)).

Additionally, NMFS revises the regulations for both the start date for all Atlantic shark fisheries and the default retention limit for Shark Directed permit holders in the LCS fisheries. Specifically regarding the start date, NMFS revises the regulations at § 635.27(b) to have the fishery automatically open on January 1 each year under base quotas and default retention limits. NMFS maintains the flexibility to prevent a regional or sub-regional shark management group from automatically opening on January 1 if the

respective quota is overharvested or there are indications that opening on January 1 would result in the quota being overharvested. A change in opening date for a regional or sub-regional shark management group could occur during the respective fishing year or prior to January 1 for the following fishing year. Before changing the opening date from January 1, NMFS would consider the seven “Opening Commercial Fishing Season Criteria” listed at § 635.27(b)(3). Each year, during the fishing year, NMFS would follow the quota adjustment process specified in § 635.27(b)(2) and publish in the **Federal Register** an adjustment for any quota over- or underharvests based on landings reported from the previous fishing year.

Regarding the default retention limit, NMFS revises the regulations at § 635.24(a) to change the default commercial retention limit to 55 LCS other than sandbar sharks per vessel per trip for Shark Directed limited access permit holders. NMFS does not change the existing regulations that allow for changes to the retention limit during the fishing year. Specifically, NMFS could continue to adjust the retention limit from 0 to 55 LCS other than sandbar sharks per vessel per trip if the respective LCS management group is open under §§ 635.27 and 635.28, and after considering the seven “Inseason Trip Limit Adjustment” criteria at § 635.24(a)(8).

Consistent with existing regulations, all of the regional or sub-regional commercial fisheries for shark management groups would remain open until December 31 each year, or until NMFS determines that the landings for any shark management group are projected to reach 80 percent of the quota given the realized catch rates and are projected to reach 100 percent of the quota before the end of the fishing season, or until a quota-linked species or management group is closed. For the regional or sub-regional Gulf of Mexico blacktip shark management group(s), regulations at § 635.28(b)(5)(i) through (v) authorize NMFS to close the management group(s) before landings have reached, or are projected to reach, 80 percent of the quota after considering the criteria

and other relevant factors. NMFS manages each Atlantic shark management group by using a specific commercial annual catch limit, with some linkages among shark management groups whose species are often caught together. The linked and non-linked quotas are shown in Table 1.

If NMFS determines that shark species and/or management group must be closed, then NMFS will publish in the **Federal Register** a notice of closure for that shark species, management group, region, and/or sub-region. The closure will be effective no fewer than 4 days from the date of filing for public inspection with the Office of the Federal Register. In that event, from the effective date and time of the closure until the start of the following fishing year or until NMFS announces that the season is reopened and additional quota is available (via publication of another notice in the **Federal Register**), the fisheries for the shark species and/or management groups will be closed.

Table 1 – Quota Linkages and Commercial Retention Limit by Regional or Sub-Regional Shark Management Group

Region or Sub-Region	Management Group	Quota Linkages ¹	Commercial Retention Limits for Directed Shark Limited Access Permit Holders ²
Western Gulf of Mexico	Blacktip Sharks	Not Linked	55 LCS other than sandbar sharks per vessel per trip
	Aggregated LCS	Linked	
	Hammerhead Sharks		
Eastern Gulf of Mexico	Blacktip Sharks	Not Linked	55 LCS other than sandbar sharks per vessel per trip
	Aggregated LCS	Linked	
	Hammerhead Sharks		
Gulf of Mexico	Non-Blacknose SCS	Not Linked	N/A
	Smoothhound Sharks	Not Linked	N/A
Atlantic	Aggregated LCS	Linked	55 LCS other than sandbar sharks per vessel per trip
	Hammerhead Sharks		N/A
	Non-Blacknose SCS	Linked (South of 34° N lat. Only)	8 blacknose sharks per vessel per trip ³
	Blacknose Sharks (South of 34° N lat. Only)		
	Smoothhound Sharks	Not Linked	N/A
No Regional Quotas	Non-Sandbar LCS Research	Linked ⁴	N/A
	Sandbar Shark Research		
	Blue Sharks	Not Linked	N/A
	Porbeagle Sharks		
	Pelagic Sharks Other Than Porbeagle or Blue		

¹ Section 635.28(b)(4) lists species and management groups with quotas that are linked. If quotas are linked, when the specified quota threshold for one management group or species is reached and that management group or species is closed, the linked management group or species closes at the same time (§ 635.28(b)(3)).

² Inseason adjustments are possible.

³ Applies to Shark Directed and Shark Incidental permit holders.

⁴ Shark research permits “terms and conditions” state that when the individual sandbar or research LCS quotas authorized by the permit are landed, all fishing trips under the permit must stop.

Final 2024 Commercial Shark Quotas

In this final rule, NMFS adjusts the quota levels for the various shark stocks and management groups for the 2024 Atlantic shark commercial fishing year (*i.e.*, January 1 through December 31, 2024) based on underharvests that occurred during the 2023 fishing year, consistent with existing regulations at § 635.27(b). Overharvests and underharvests are accounted for in the same region, sub-region, or fishery in which they occurred the following year, except that large overharvests may be spread over a maximum of 5 fishing years. Unharvested quota may be added to the quota for the next fishing year, but only for shark management groups that have shark stocks that are declared not overfished and not experiencing overfishing. No more than 50 percent of a base annual quota may be carried over from a previous fishing year.

Based on 2023 harvests through September 18, 2023, and after considering catch rates and landings from previous years, NMFS adjusts the 2024 quotas for certain management groups as shown in Table 2. NMFS anticipates that dealer reports received after September 18, 2023 will be used to adjust 2025 quotas, as appropriate, noting that, in some circumstances, NMFS re-adjusts quotas during the subject year. A description of the calculations for each stock and management group is provided in the proposed rule and is not repeated here.

Table 2 – 2024 Quotas for the Atlantic Shark Management Groups

Region or Sub-Region	Management Group	2023 Annual Quota (A)	Preliminary 2023 Landings ¹ (B)	Adjustments ² (C)	2024 Base Annual Quota (D)	2024 Final Annual Quota (D+C)
Western Gulf of Mexico	Blacktip Sharks	347.2 mt (765,392 lb)	235.5 mt (519,232 lb)	115.7 mt (225,131 lb)	231.5 mt (510,261 lb)	347.2 mt (765,392 lb)
	Aggregate Large Coastal Sharks ³	72.0 mt (158,724 lb)	77.8 mt (171,540 lb)	-	72.0 mt (158,724 lb)	72.0 mt (158,724 lb)
	Hammerhead Sharks	11.9 mt (26,301 lb)	<3.0 mt (<6,612 lb)	-	11.9 mt (26,301 lb)	11.9 mt (26,301 lb)
Eastern Gulf of Mexico	Blacktip Sharks	37.7 mt (83,158 lb)	3.8 mt (8,345 lb)	12.6 mt (27,719 lb)	25.1 mt (55,439 lb)	37.7 mt (83,158 lb)
	Aggregate Large Coastal Sharks ³	85.5 mt (188,593 lb)	5.6 mt (12,260 lb)	-	85.5 mt (188,593 lb)	85.5 mt (188,593 lb)
	Hammerhead Sharks	13.4 mt (29,421 lb)	<1.0 mt (<2,204 lb)	-	13.4 mt (29,421 lb)	13.4 mt (29,421 lb)
Gulf of Mexico	Non-Blacknose Small Coastal Sharks	112.6 mt (428,215 lb)	32.7 mt (71,987 lb)	-	112.6 mt (428,215 lb)	112.6 mt (428,215 lb)
	Smoothhound Sharks	504.6 mt (1,112,441 lb)	<1.0 mt (<2,204 lb)	168.2 mt (370,814 lb)	336.4 mt (741,627 lb)	504.6 mt (1,112,441 lb)
Atlantic	Aggregate Large Coastal Sharks	168.9 mt (372,552 lb)	78.5 mt (172,983 lb)	-	168.9 mt (372,552 lb)	168.9 mt (372,552 lb)
	Hammerhead Sharks	27.1 mt (59,736 lb)	19.9 mt (43,800 lb)	-	27.1 mt (59,736 lb)	27.1 mt (59,736 lb)
	Non-Blacknose Small Coastal Sharks	264.1 mt (582,333 lb)	52.5 mt (115,820 lb)	-	264.1 mt (582,333 lb)	264.1 mt (582,333 lb)
	Blacknose Sharks (South of 34° N lat. Only)	17.2 mt (3,921 lb)	4.7 mt (10,363 lb)	-	17.2 mt (3,921 lb)	17.2 mt (3,921 lb)
	Smoothhound Sharks	1,802.6 mt (3,973,902 lb)	290.6 mt (640,557 lb)	600.9 mt (1,324,634 lb)	1,201.7 mt (2,649,268 lb)	1,802.6 mt (3,973,902 lb)
No Regional Quotas	Non-Sandbar LCS Research	50.0 mt (110,230 lb)	<2.0 mt (<4,408 lb)	-	50.0 mt (110,230 lb)	50.0 mt (110,230 lb)
	Sandbar Shark Research	90.7 mt (199,943 lb)	<22.0 mt (<48,500 lb)	-	90.7 mt (199,943 lb)	90.7 mt (199,943 lb)
	Blue Sharks	273.0 mt (601,856 lb)	<2.0 mt (<4,408 lb)	-	273.0 mt (601,856 lb)	273.0 mt (601,856 lb)
	Porbeagle Sharks	1.7 mt (3,748 lb)	<1.0 mt (<2,204 lb)	-	1.7 mt (3,748 lb)	1.7 mt (3,748 lb)
	Pelagic Sharks Other Than Porbeagle or Blue	488.0 mt (1,075,856 lb)	15.5 mt (34,131 lb)	-	488.0 mt (1,075,856 lb)	488.0 mt (1,075,856 lb)

¹ Landings are from January 1, 2023 through September 18, 2023 and are subject to change.

² Underharvest adjustments can only be applied to stocks or management groups that are declared not overfished and have no overfishing occurring. The underharvest adjustments cannot exceed 50 percent of the base quota.

³ NMFS transferred 40.0 mt dw of the aggregate LCS quota from the Gulf of Mexico eastern sub-region to the western sub-region as of March 21, 2023 (88 FR 17742, March 24, 2023).

Response to Comments

Written comments can be found at <http://www.regulations.gov/> by searching “NOAA-NMFS-2023-0018.” Below, NMFS summarizes and responds to the two written comments received on the proposed rule during the comment period. Similar comments are combined, where appropriate.

Comment: NMFS received two comments that requested a prohibition on all shark fishing, expressing concern over the stock status of Atlantic shark species. Specifically, one of the comments stated that commercial harvest of sharks is not sustainable, and commercial shark fishing should be prohibited until shark populations have recovered.

Response: NMFS disagrees with the statement that commercial harvest of sharks is not sustainable. Under the Magnuson-Stevens Act, NMFS is required to foster the long-term biological and economic sustainability of fisheries, including the shark fishery. The majority of sharks harvested in the United States are from stocks with above-target population levels. For shark stocks that are overfished, NMFS has established rebuilding plans based on the best scientific information available. Most of these rebuilding plans include some level of commercial harvest. For those shark stocks that are experiencing overfishing, NMFS has implemented management measures, which may include strict catch limits, to end overfishing. The primary objective of this final rule is to adjust the base quotas and retention limits as necessary and consistent with existing regulations at §§ 635.24(a) and 635.27(b), and to change the default opening date for all Atlantic shark fisheries and the default retention limit measures for LCS fisheries for future fishing years. Prohibiting all shark fishing is contrary to that objective and to the requirements of the Magnuson-Stevens Act.

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: October 31, 2023.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 635 as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.24, revise paragraph (a)(2) to read as follows:

§ 635.24 Commercial retention limits for sharks, swordfish, and BAYS tunas.

* * * * *

(a) * * *

(2) The commercial retention limit for LCS other than sandbar sharks for a person who owns or operates a vessel that has been issued a directed LAP for sharks and does not have a valid shark research permit, or a person who owns or operates a vessel that has been issued a directed LAP for sharks and that has been issued a shark research permit but does not have a NMFS-approved observer on board, may range between 0 and 55 LCS other than sandbar sharks per vessel per trip if the respective LCS management group(s) is open per §§ 635.27 and 635.28. Such persons may not retain, possess, or land sandbar sharks. At the start of each fishing year, the default commercial retention limit is 55 LCS other than sandbar sharks per vessel per trip unless NMFS determines otherwise and files with the Office of the Federal Register for publication notification of an inseason adjustment. During the fishing year, NMFS may adjust the retention limit per the inseason trip limit adjustment criteria listed in paragraph (a)(8) of this section.

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3. In § 635.27, revise paragraphs (b)(2) introductory text and (b)(3) introductory text to read as follows:

§ 635.27 Quotas.

* * * * *

(b) * * *

(2) *Annual and inseason adjustments of commercial quotas.* NMFS will publish in the **Federal Register** any annual or inseason adjustments to the base annual commercial overall, regional, or sub-regional quotas. Unless the opening date of a commercial shark fishery is adjusted under paragraph (b)(3) of this section, on January 1 of each year, base quotas, as established in paragraph (b)(1) of this section, will be available, and any adjustments will be published in the **Federal Register**. Within a fishing year or at the start of a fishing year, NMFS may transfer quotas between regions and sub-regions of the same species or management group, as appropriate, based on the criteria in paragraph (b)(2)(iii) of this section.

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(3) *Opening commercial fishing season.* Unless adjusted under this paragraph (b)(3), the commercial shark fisheries will open on January 1 of each year under base quotas, as established in paragraph (b)(1) of this section. If NMFS determines a commercial shark fishery or a part of a commercial shark fishery should open on a date other than January 1, NMFS will file with the Office of the Federal Register for publication notification of the opening date(s) of the relevant overall, regional, or sub-regional shark fishery(ies) for the relevant species or management group(s). Before making any decisions, NMFS would consider the following criteria and other relevant factors in establishing the opening date(s):

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4. In § 635.28, revise paragraphs (b)(2) and (3) to read as follows:

§ 635.28 Fishery closures.

* * * * *

(b) * * *

(2) *Non-linked quotas*. If the overall, regional, and/or sub-regional quota of a species or management group is not linked to another species or management group and that overall, regional, and/or sub-regional quota is available, then that overall, regional, and/or sub-regional commercial fishery for the shark species or management group will open as specified in § 635.27(b). When NMFS calculates that the overall, regional, and/or sub-regional landings for a shark species and/or management group, as specified in § 635.27(b)(1), has reached or is projected to reach 80 percent of the applicable available overall, regional, and/or sub-regional quota as specified in § 635.27(b)(1) and is projected to reach 100 percent of the relevant quota by the end of the fishing season, NMFS will file for publication with the Office of the Federal Register a closure action, as applicable, for that shark species and/or shark management group that will be effective no fewer than 4 days from date of filing. From the effective date and time of the closure until the start of the following fishing year or until NMFS announces, via publication in the **Federal Register**, that additional overall, regional, and/or sub-regional quota is available and the season is reopened, the overall, regional, and/or sub-regional fisheries for that shark species or management group are closed.

(3) *Linked quotas*. As specified in paragraph (b)(4) of this section, the overall, regional, and/or sub-regional quotas of some shark species and/or management groups are linked to the overall, regional, and/or sub-regional quotas of other shark species and/or management groups. For each pair of linked species and/or management groups, if the overall, regional, and/or sub-regional quota specified in § 635.27(b)(1) is available for both of the linked species and/or management groups, then the overall, regional, and/or sub-regional commercial fishery for both of the linked species and/or management groups will open as specified in § 635.27(b)(1). When NMFS calculates that the overall, regional, and/or sub-regional landings for any species and/or management group of a linked group have reached or are projected to reach 80 percent of the applicable available

overall, regional, and/or sub-regional quota as specified in § 635.27(b)(1) and are projected to reach 100 percent of the relevant quota before the end of the fishing season, NMFS will file for publication with the Office of the Federal Register a closure action for all of the species and/or management groups in that linked group that will be effective no fewer than 4 days from date of filing. From the effective date and time of the closure until the start of the following fishing year or until NMFS announces, via publication in the **Federal Register**, that additional overall, regional, and/or sub-regional quota is available and the season is reopened, the overall, regional, and/or sub-regional fishery for all species and/or management groups in that linked group is closed.

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